



BUSINESS ADVISORY COUNCIL MEETING MINUTES

DATE: Thursday, February 19, 2015

TIME: 1:08 p.m. to 3:15 p.m.

LOCATION: 707 3rd Street, West Sacramento, CA – Auditorium

CALIFORNIA HIGH-SPEED RAIL AUTHORITY REPRESENTATIVES:

Thomas Fellenz, Council
Chair

Robert Magnuson, Chief of
Communications/External
Affairs

Jose Camarena, Director of
Contract Compliance

Scott Jarvis, Assistant Chief
Program Manager

Paula Rivera, Senior
Management Auditor

Karen Massie Withrow,
CHSRA

Patricia Padilla, CHSRA –
PMT

Olivia Fonseca, CHSRA –
PMT

Lauren Jaquith, CHSRA -
PMT

Austin Kidwell, CHSRA -
PMT

MEMBERS PRESENT:

AICC: Adam Holt

ACEC: Arvin Chaudhary

AAAE: Eddy Lau

AAa/e: Linden Nishinaga

AGC: Sam Hassoun

GFACC: Debbie Hunsaker

KMCA: Marvin Dean

LRRT: Paul Guerrero

NAACP: Betty Williams

NCA: Diana LaCome

SFAACC: Fred Jordan

WCOE: Lee Cunningham

CHCC: Darrel Saucedo

SAME: Vida Wright

WTS: Maritza Acosta

MEMBERS ABSENT:

ABA: Jason Kim

CAACC: Tanya Motta

CBCC: Aubry Stone

DVBA: Chris Coles

ESDVOBN: Bill Ulmer

LBA: Leonard Ortiz

USPAACC: Clyde Wong

ALTERNATES PRESENT:

AAAE: Ellen Lee

AICCC: Adam Holt

CHCC: Jesus Vargas

SFAACC: Caesar Churchwell

WTS: Charissa Frank

GUESTS

Angel Carrera, Department of
General Services

Tanya Little, Department of
General Services

Laura Uden, NSI Engineering

Pete Varma, National
Association of Minority
Contractors



BUSINESS ADVISORY COUNCIL MEETING MINUTES

ITEM I: WELCOME/INTRODUCTIONS (Thomas Fellenz, Council Chair)

- Council Chair Fellenz opened the meeting at 1:08 p.m. by welcoming everyone. Council Chair Fellenz initiated introductions of members and guests present.

ITEM II: APPROVAL OF JUNE AND AUGUST MINUTES (Thomas Fellenz, Council Chair)

- Council Chair Fellenz presented the draft minutes from the October 16, 2014 meeting.
- Member Hassoun asked if Chairman Fellenz would be continuing as Council Chair in 2015
 - Chairman Fellez answered that he would be continuing as Chair in 2015 and that Bob Magnuson would serve as Co-hair.
- Member Hunsaker moved that the October 16, 2014 minutes be adopted. Member Guerrero seconded the motion. The minutes were adopted by majority vote.

ITEM III: ADMINISTRATIVE ITEMS (Thomas Fellenz, Council Chair)

- Chairman Fellenz stated that because the Council is advisory and not created by State of California statutes, the Bagley-Keene act does not apply to the formation of the Council and its meetings. However, as a courtesy and for standardization of the meeting, the Authority follows the best practices of the Act.
 - Member Guerrero stated that it was his understanding that the Bagley-Keene Act did apply to advisory councils. Member Guerrero also stated that the Department of General Services' Small Business Council follows the Bagley-Keene Act.
 - Chairman Fellenz responded that he would reexamine the applicability of the Bagley-Keene Act to the council and report back at the next Council meeting.
- Chairman Fellenz directed members to a handout in their packets that contained information on SB 854, which requires contractors that do business with the state to be registered with the Department of Industrial Relations (DIR) by March 1st, 2015.
 - Member Wright asked if SB 854 applies to professional services firms.
 - Patricia Padilla responded that for the most part it would not. It applied to work under DIR classifications, which includes some professional services such as surveying, if the surveying work is prevailing wage.
 - Member Guerrero stated the law applies to any firm with a public contract, and added that implementation of the law had been delayed to June 1st.
 - Member Hunsaker stated that the new law applies to public works that fall under prevailing wage laws.
 - Mr. Camarena indicated that the DIR and Caltrans will be hosting a workshop on March 6, 2015 in Stockton on the topic of SB 854.
 - Ms. Padilla re-confirmed Member Hunsaker's comment that the law applies to public works contracts that incorporate prevailing wage requirements.

- Chairman Fellenz stated that the Authority will research Member Guerrero's comment and any potential delay to implementing SB 854 would be sent to the members by email or clarified at the next council meeting.
- Chairman Fellenz reminded members that the associations they represent must submit their reaffirmation letters in order to continue serving on the Council in 2015 if they have not already done so. A sample reaffirmation letter can be provided upon request.
- Chairman Fellenz informed members that due to the High-Speed Rail Authority's limited budget reimbursement for member's travel expenses is not available at this time.
- Chairman Fellenz directed members to the Request Tracking Forms in their packets, which detailed both open requests and the 23 closed requests, which demonstrate the important contribution of the Council to the High-Speed Rail project.
 - In regards to open Construction Committee Request Number 5, BART's Prompt Payment procedure, the Authority's response to which stated that BART did not have a mechanism to pay subcontractors directly, Member Guerrero stated that BART's direct payment to subcontractors was present when BART was first created.
- Chairman Fellenz reminded members to submit official requests using the Official Committee Request Form and to submit it through their Committee Chair after being approved by the relevant committee.

ITEM IV: PRESENTATION ON PREAWARD REVIEWS AND PROPOSED COSTS (Paula Rivera, Senior Management Auditor)

- The Authority conducts preaward reviews on all RFQ contracts, and primarily on Architecture and Engineering contracts to ensure that costs are documented and reasonable for billing purposes.
- When firms enter negotiation with the authority they are requested to provide proposals and cost documentations for themselves and all proposed subcontractors.
- The Authority utilizes payroll registers and other documentation to verify proposed cost ranges and to ensure that the proposed costs are based on actual cost data and are in compliance with federal regulations.
- To verify overhead rates the Authority looks at direct rates and profit-and-loss statements are usually sufficient.
- The overhead rate must comply with Federal Regulations, notably 48 CFR, Part 31
- Unallowable costs, such as entertainment and travel, must be reported in separate accounts.
- Employees must fill out time sheets accounting for both direct and indirect hours, so that indirect and direct hours can be reconciled.
- The AASHTO Audit Guide is a useful source for background information on these processes.
- Travel costs must be in accordance with California rates and guidelines.
- Travel expenses must reflect actual cost and be presented as rates, not total costs.
- Member Jordan asked if the Authority follows Federal Acquisition Regulations (FAR).
 - Ms. Rivera answered that the Authority does follow FAR and costs must be in compliance with FAR.
- Member Jordan further asked about Safe Harbor Rates and whether Ms. Rivera had any experience with them.

- Ms. Rivera answered that she has not had direct experience with Safe Harbor rates, but was familiar with the Safe Harbor program at Caltrans. Ms. Rivera indicated she would be open to a wider discussion of the issue at another time.
- Member Wright noted that Caltrans accepts rates approved by other federal agencies, and asked if these rates would also be acceptable to the Authority.
 - Ms. Rivera answered that this depends on a number of factors, such how long ago the rate was accepted, but that rates accepted by other agencies would usually be accepted by the Authority.
- Member Wright noted that Safe Harbor Rates are helpful to newer small businesses and asked how the Authority can help newer small businesses that lack the detailed records of older businesses.
 - Ms. Rivera responded that the Authority uses straightforward methods, such as examining QuickBooks, which should allow newer firms a level playing field.
- Member Acosta asked how the Authority would evaluate new firms in their first year that do not have past records for the Authority to examine.
 - Ms. Rivera responded that the Authority would request the firm to explain how the proposed rate is calculated and then use that as a baseline for evaluation.
- Member Guerrero asked how the Authority looks at rental rates for companies that rent equipment.
 - Ms. Rivera answered that a company would need to submit rental receipts for verification.
- Member Chaudhary asked if these processes apply to design-build contracts.
 - Ms. Rivera answered that they apply only to RFQs on Architecture and Engineering contracts.

ITEM V: PRESENTATION ON RAIL DELIVERY PARTNER RFQ (Scott Jarvis, Assistant Chief Program Manager)

- The High-Speed Rail Authority relies heavily upon private enterprise to provide the professional services work that will form the framework for the High-Speed Rail project. As a result, there are robust opportunities for small business participation on the project.
- The scope of the new Rail Delivery Partner (RDP) RFQ will be similar to that of the expiring Program Management Team contract, but has been expanded to reflect the evolution and growth of the High-Speed Rail project.
- The RDP will work on project delivery, environmental compliance, construction management, engineering services, procurement, right-of-way acquisition and wide range of other responsibilities.
- The RDP's role in contract management will be significantly expanded from that of the PMT.
- Delivery and System integration will be emphasized for the RDP because the High-Speed rail Project must ultimately operate as one unified system.
- Seismic and tunneling work will also be emphasized as the Rail Project will traverse three mountain ranges and have to address earthquake risk.
- Other new emphases include alternative contract delivery, operations and maintenance, and procurement and contracts.
- The RDP will work as an integrated team with the authority in order to deliver effective program management.
- The Authority has spoken with eight large project management firms regarding the RDP contract.
- A draft RFQ was released last year and revised based on public responses and comments.
- The timeline for the contract has been expanded to facilitate increased competition.

- Member Cunningham asked if there was a stipend for teams working on proposals?
 - Mr. Jarvis answered that there is not.
- The RDP contract will be one of the largest Architecture and Engineering contracts in California history. The estimated cost is 6 Million to 8 Million dollars per month and the contract will run through 2022.
- Member Nishinaha asked about the payment method and if it was lump-sum.
 - Mr. Jarvis responded that it would be direct costs plus a markup, as is usual on professional services contracts. Part of the payment will be incentives based on deliverables.
 - Member Nishinaha noted that the Authority should not incentivize delay and therefore should present the Prime contractor with a master schedule.
- Member Guerrero stated that the Authority has had issues in the past with paying its contractors on schedule and asked if the Authority would be able to pay contractors and subcontractors promptly.
 - Mr. Jarvis responded that the allocation of Cap-and-Trade funds to the Authority has given it a much stronger fiscal position and that it would be able to pay promptly.
- The RDP RFQ was released in January. Statements of qualification are due in March. Interviews and negotiation with the highest scoring Offeror will take place in April. A recommendation of award will be presented to the Board of Directors in June and a notice to proceed will be issued in June.
 - Member Cunningham asked why members were not given this information earlier in the process on this RFQ since it is already well underway and it may be too late for small businesses to join a proposal.
 - Authority staff responded that this information had been disseminated in a number of ways, included press releases, emails notices and in the Small Business newsletter, and that a presentation on this topic was scheduled to be given at the Council's cancelled December meeting. Since the December meeting was cancelled the Authority disseminated the information through email and included the powerpoint.
- The evaluation process will be the standard one for RFQs. The Offerors will be evaluated on three categories: 1. Past performance, 2. Key personnel and Organization structure, 3. Delivery approach, understanding of project and innovative ideas.
- Member LacCome asked why Parsons Brinckerhoff (PB) is not conflicted out of this contract.
 - Mr. Jarvis responded that the scope is different from PB's current PMT contract, which will expire before the RDP contract is enacted. PB has had no role whatsoever in the RDP RFQ process.
- Member Nishinaha asked how much the dollar amount for the contract will be.
 - Mr. Jarvis responded that it would be approximately 700 million dollars.
- Member Jordan asked what day in March are responses to the RFQ due.
 - Mr. Jarvis answered March 23rd.
- The contract is advertised on bidsync, will follow the RFQ process under California regulations and must comply with the Small, Disadvantaged and Disabled Veteran participation goals.
- The Prime Contractors will be conflicted out of working on any other High-Speed Rail contracts based on the Authority's conflict of Interest policies.
- Subcontractors may or may not be conflicted out of other work on a case-by-case basis.
- Member Chaudhary asked if the overhead rate review will be operated as per usual on Architecture and Engineering contracts.
 - Mr. Jarvis answered in the affirmative.

- Member Chaudhary further asked about how the performance reward will be determined and if these rewards will flow down to subcontractors.
 - Mr. Jarvis answered that the performance rewards will be for the entire team and will flow down to subcontractors.

ITEM VI: COMMITTEE PLANNING SESSIONS OUTCOMES

- Chairman Fellenz announced that Vida Wright has been selected to Chair the Professional Services Committee in 2015 and that Sam Hassoun has been reselected to chair the Construction Committee.

PROFESSIONAL SERVICES COMMITTEE (Arvin Chaudhary)

- Noted that Member Organizations contain members interested in both construction and in professional services and further noted that some organizations primary and alternate members attend different committees. Requested that it be taken under consideration to amend the Council operating guidelines to allow for alternates attending a different committee than their primary member to be able to vote in that committee.
- Listed three accomplishments of the committee in the past year:
 1. Facilitating enhanced opportunities for potential subcontractors to meet with potential prime contractors and amplified outreach by potential primes to potential subs.
 - Noted that the forum on the RDP contract for potential prime contractors to meet potential subcontractors was excellent and an example to be followed.
 - The potential prime contractors were asked to introduce themselves and were required to host an exhibit table. One prime had sufficient members of the team at the exhibit table that enabled small businesses to reach the table promptly and not have to stand in line behind fifty or so firms waiting to talk to one person. This one potential prime also had its members clearly identify their name through name tags.
 2. Ensuring that prime contractors cannot compel subcontractors to be exclusive to one proposal.
 3. Enhancing sub-tier utilization.
- Listed a series of goals for the Committee in 2015:
 - Adding Safe Harbor Rates as an additional option for the calculation of overhead rates in the Authority's Annual Work Program.
 - Separating the 30/10/3 goal for professional services and construction. An updated request will be submitted aimed at examining if there is a disparity between the 30/10/3 goal being met on professional services and on construction.
 - Improving the Small Business Utilization Form 103.
 - Prompt Payment on Architecture and Engineering contracts with incentives for early payment of subcontractors.
 - All contracts including the 30/10/3 goal including inter-agency contracts.
 - Authority to post prompt award notices.
 - Improving the Authority's debriefing process, especially in regards to subcontractors.

CONSTRUCTION COMMITTEE (Sam Hassoun)

- Listed three goals for the committee in 2015:
 1. Ensuring prompt payment to subcontractors regardless of tier.

- Committee would like to invite Russell Fong, Chief Financial Officer to attend a meeting and present on the Authority's prompt payment processes.
 - Committee would like to invite Hugo Mejia (CP-1) to attend a meeting and present on the Authority retention release process.
 - Ensure all subcontractor tiers get paid within 7 days.
 - Encourage primes to pay subcontractors regardless of their payment from the Authority – look at incentive payment to primes for paying subcontractors early
 - Authority to look at an electronic payment system. No checks in the mail.
 - Return subcontractors retention upon acceptance of work completed.
2. Effective bonding and insurance for SB subcontractors, implement a Contractor Bonding Assistance Program. Stated that the committee would like Jon Tapping to return to update the committee on OCIP.
 3. Improved networking, communications and outreach between the Authority, the small business community and potential contractors. This includes the authority providing members with publicity materials, the regional directors visiting local organizations, and potential subcontractors being able to view potential upcoming opportunities for business from the Design-Builder, on third-party contracts and other contracts.
 - Communications Division to provide members with Authority publicity materials, talking points, and other tools for dissemination to members and the public pertaining to the high-speed rail project.
 - Regional Directors to visiting local small business organizations, and meet with potential subcontractors.
 - Issue a "Look Ahead" of contract opportunities.
 - Implement an electronic system to to view potential upcoming opportunities from the Authority, Design-Builders, on third-party contracts and other contracts. Ms. LaCome recommended the Authority contact Derek Pool from Caltrans to obtain information on the SB outreach database that was used on the San Francisco-Oakland Bay Bridge project.
- The committee determined that it deserved a "C" grade for its work in 2014 and that it aimed at earning a "B" grade in 2015.

ITEM VII: PROJECT UPDATE (Lam Nguyen, Principal Transportation Engineer)

- Construction Package 2-3 is close to award, Construction package 4 is on the way for RFP.
- A Plan-Ahead Procurement Report is in member's packets and with details on upcoming procurements.
- A \$50 Million Regional Consultant RFQ in the San Francisco to San Jose and San Jose to Merced regions will be released in Spring.
 - Member Wright asked who currently is doing the regional consultant work for the San Francisco to San Jose corridor.
 - Mr. Nguyen responded that Parsons Brinkerhoff has been doing this work on an interim basis after HNTB's contract expired.
 - Member Jordan asked if Parsons Transportation Group's (PTG) contract had expired.
 - Mr. Nguyen answered that it had and that the RFQ to be released in spring would replace part or all of HNTB and PTG's previous Regional Consultant contracts.

- In the summer, the Project Construction Management Contract for Construction Package 4 will be advertised. The scope of this contract is still being determined. This contract will likely have a wide range of opportunities for Professional Services subcontractors.
 - Member Nishinaga asked if these contracts include the 30/10/3 small business goal.
 - Mr. Nguyen answered that they do include the 30/10/3 goal.
- In Architecture and Engineering contracts the Authority is now requesting that potential prime contractors discuss their small business utilization plan in the award process and that Prime contractors mentor Small Business subcontractors.
- A contract for the Trainsets will be advertised in Spring of 2015 and will be a five and a half year contract. Ten manufacturers have already expressed an interest in this contract.
 - Member Nishinaga asked how many trainsets the Authority would be procuring.
 - Mr. Nguyen responded that that was still under discussion and that the upcoming procurement would begin with test sets.
 - Member Guerrero noted that he had heard a rumor that the trainsets would be built by Siemens in Sacramento.
 - Mr. Nguyen responded that no such pre-determination has been made and the contract has not even been advertised yet.
 - Member Vargas asked if quality control would be included in the train set contract.
 - Mr. Nguyen responded that quality management will fall under the Rail Delivery Partner contract.
- An On-Call Statewide Geotechnical Services contract will be advertised in Summer of 2015 and will include preliminary geotechnical services, seismic analysis, data analysis of bore holes, tunneling preparations and other geotechnical services.

ITEM VIII: SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATE (JOSE CAMARENA, DIRECTOR OF CONTRACT COMPLIANCE)

- Stated that CP 1 is currently focused on utilities work. There are no new Small Business utilization numbers to report.
- Announced that out of 138 construction workers recently hired, 102 were targeted hired under the National Targeted Hiring Initiative.
- Invited members to participate in the Caltrans Calmentor program, and shared information on two events:
 - A networking event in Fresno on April 21st.
 - A Public Works and Purchasing Showcase which will take place in Stockton on March 5th.
- Invited members to a procurement fair in Fresno on March 6th and requested that they invite any members of their organizations that may be able to provide material to the CP 1 and upcoming CP 2-3 offices. Stated that the event flyer was in the member packets.
- Announced that Small Business Certification workshops would be held in Bakersfield on February 27th and in Visalia on March 4th.

ITEM IX: PUBLIC COMMENT

- Member Jordan shared that the Assembly Judiciary Committee is hosting a hearing on Government Contracting in California and the impacts of Proposition 209 on doing business with the state. The Assembly Judiciary Committee meeting is on February 24, 2015 at the State Capitol.

- Member LaCome stated that dispute resolution mechanisms should be included in Small Business Supportive Services contracts.
- Members Vargas and Hunsaker are planning on host a networking session after the council's June meeting in Fresno.
- Member Vargas announced that there would be a day of advocacy for public transportation on April 9th Conference of Minority Transportation Officials and invited members to participate.
- Member Jordan introduced Pete Varma of the National Association of Minority Contractors and invited Mr. Varma and his organization to apply for membership of the Council.
- Mr. Varma announced that the National Association of Minority Contractors would be holding an event on Treasure Island on February 26th and invited members to attend.
- Tanya Little of the Department of General Services announced that a new Small Business award was being created to reward success stories of effective partnerships between government and small and disadvantaged businesses, and invited members to submit nominations for the award.

ITEM X: ADJOURNMENT

- Council Chair Fellenz adjourned the meeting at 3:15 p.m.